

Office of Science and Technology Policy

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Director and by such principal subordinate officials having frequent need to exercise such authority as the Director shall designate in writing.

(b) The authority to classify information originally as Secret shall be exercised within OSTP only by the Director, other officials delegated in writing to have original Top Secret classification authority, and any other officials delegated in writing to have original Secret classification authority.

(c) The authority to classify information originally as Confidential shall be exercised within OSTP only by officials with original Top Secret or Secret classification authority and any officials delegated in writing to have original Confidential classification authority.

§ 2400.8 Limitations on delegation of original classification authority.

(a) The Director, OSTP is the only official authorized to delegate original classification authority.

(b) Delegations of original classification authority shall be held to an absolute minimum.

(c) Delegations of original classification authority shall be limited to the level of classification required.

(d) Original classification authority shall not be delegated to OSTP personnel who only quote, restate, extract or paraphrase, or summarize classified information or who only apply classification markings derived from source material or as directed by a classification guide.

(e) The Executive Director, OSTP, shall maintain a current listing of persons or positions receiving any delegation of original classification authority. If possible, this listing shall be unclassified.

(f) Original classification authority may not be redelegated.

(g) *Exceptional Cases.* When an employee, contractor, licensee, or grantee of OSTP that does not have original classification authority originates information believed by that person to require classification, the information shall be protected in a manner consistent with these Regulations as provided in § 2400.6(d) of this part. The information shall be transmitted promptly as provided in these Regulations to

the official in OSTP who has appropriate subject matter interest and classification authority with respect to this information. That official shall decide within thirty (30) days whether to classify this information. If the information is not within OSTP's area of classification responsibility, OSTP shall promptly transmit the information to the responsible agency. If it is not clear which agency has classification responsibility for this information, it shall be sent to the Director of the Information Security Oversight Office. The Director shall determine the agency having primary subject matter interest and forward the information, with appropriate recommendations, to that agency for a classification determination.

§ 2400.9 Classification requirements.

(a) Information may be classified only if it concerns one or more of the categories cited in Executive Order 12356, as subcategorized below, *and* an official having original classification authority determines that its unauthorized disclosure, either by itself or in the context of other information, reasonably could be expected to cause damage to the national security.

(1) Military plans, weapons or operations;

(2) The vulnerabilities or capabilities of systems, installations, projects, or plans relating to the national security;

(3) Foreign government information;

(4) Intelligence activities (including special activities), or intelligence sources or methods;

(5) Foreign relations or foreign activities of the United States;

(6) Scientific, technological, or economic matters relating to the national security;

(7) United States Government programs for safe-guarding nuclear materials or facilities;

(8) Cryptology;

(9) A confidential source; or

(10) Other categories of information which are related to national security and that require protection against unauthorized disclosure as determined by the Director, Office of Science and Technology Policy. Each such determination shall be reported promptly to

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the Director of the Information Security Oversight Office.

(b) Foreign government information need not fall within any other classification category listed in paragraph (a) of this section to be classified.

(c) Certain information which would otherwise be unclassified may require classification when combined or associated with other unclassified or classified information. Classification on this basis shall be fully supported by a written explanation that, at a minimum, shall be maintained with the file or referenced on the record copy of the information.

(d) Information classified in accordance with this section shall not be declassified automatically as a result of any unofficial publication or inadvertent or unauthorized disclosure in the United States or abroad of identical or similar information. Following an inadvertent or unauthorized publication or disclosure of information identical or similar to information that has been classified in accordance with Executive Order 12356 or predecessor orders, OSTP, if the agency of primary interest, shall determine the degree of damage to the national security, the need for continued classification, and in coordination with the agency in which the disclosure occurred, what action must be taken to prevent similar occurrences. If the agency of primary interest is other than OSTP, the matter shall be referred to that agency.

§ 2400.10 Presumption of damage.

Unauthorized disclosure of foreign government information, the identity of a confidential foreign source, or intelligence sources or methods, is presumed to cause damage to the national security.

§ 2400.11 Duration of classification.

(a) Information shall be classified as long as required by national security considerations. When it can be determined, a specific date or event for declassification shall be set by the original classification authority at the time the information is originally classified.

(b) Automatic declassification determinations under predecessor Executive Orders shall remain valid unless the

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classification is extended by an authorized official of the originating agency. These extensions may be by individual documents or categories of information. The originating agency shall be responsible for notifying holders of the information of such extensions.

(c) Information classified under predecessor Executive Orders and marked for declassification review shall remain classified until reviewed for declassification under the provisions of Executive Order 12356.

(d) Information classified under predecessor Executive Orders that does not bear a specific date or event for declassification shall remain classified until reviewed for declassification. The authority to extend the classification of information subject to automatic declassification under predecessor Orders is limited to those officials who have classification authority over the information and are designated in writing to have original classification authority at the level of the information to remain classified. Any decision to extend this classification on other than a document-by-document basis shall be reported to the Director of the Information Security Oversight Office.

§ 2400.12 Identification and markings.

(a) At the time of original classification, the following information shall be shown on the face of all classified documents, or clearly associated with other forms of classified information in a manner appropriate to the medium involved, unless this information itself would reveal a confidential source or relationship not otherwise evident in the document or information:

(1) One of the three classification levels defined in § 2400.6 of this part;

(2) The identity of the original classification authority if other than the person whose name appears as the approving or signing official;

(3) The agency and office of origin; and

(4) The date or event for declassification, or the notation “Originating Agency’s Determination Required.”

(b) Each classified document shall, by marking or other means, indicate which portions are classified, with the applicable classification level, and which portions are not classified. The